Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs	)))	WC Docket No. 18-89

COMMENTS OF PINE BELT CELLULAR, INC.

Pine Belt Cellular, Inc. ("Pine Belt"), by counsel, hereby submits these comments in response to the *Notice of Proposed Rulemaking* ("NPRM") in the above-captioned proceeding.[1] For the reasons stated herein, Pine Belt urges the Federal Communications Commission ("FCC" or "Commission") to strongly consider the negative economic impact of the proposed rule described in the NPRM on small businesses, and in particular on small rural telecommunications companies, when reaching its final conclusions and promulgating rules, if any, in the proceeding. Further, Pine Belt requests that the FCC not tie the use of Universal Service Fund ("USF") funds to a prohibition against the purchase of equipment or services from communications equipment or service providers unless the United States government proves that the use of specific equipment manufactured by such providers in rural areas is an actual threat to the national security of the United States and makes such final determination available to all telecommunications providers.

[1] *In re* Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs, *Notice of Proposed Rulemaking*, WC Docket No. 18-89 (rel. April 17, 2018)("NPRM").

I. Background

Pine Belt is one member of a family of telecommunications carriers with local roots that date back to 1958 when the founder, the late Dr. James D. Nettles, moved his young medical practice to his home community of Arlington, Alabama. At the time, there was little to no telephone service in the area. Like many other entrepreneurs of those days, Dr. Nettles organized the nucleus of Pine Belt, its parent company, and its affiliates in order to meet the needs of the rural citizens in the area, hoping to make an honest return by providing first class service without any expectation of generating a significant profit or wide market dominance. Since those early founding years, Pine Belt has expanded the breadth and depth of its offerings in order to maintain pace with the ever-evolving landscape of telecommunications and meet the needs of the communities it serves by providing the full range of affordable, high quality services. Today, Pine Belt, along with its parent and affiliate companies, provides:

- 4G-LTE wireless broadband (both mobile and fixed), 3G-CDMA wireless broadband, 1xRTT wireless voice and broadband across the Alabama counties of Choctaw, Dallas, Marengo, Perry and Wilcox;
- ILEC and CLEC voice and broadband ILEC and CLEC services in parts of each county named above, plus Clarke County, Alabama (together with Choctaw, Dallas, Marengo, Perry and Wilcox Counties, "Service Area"); and
- Traditional HFC cable TV services in parts of Choctaw and Clarke County, Alabama.

In providing the above-described wireless services, Pine Belt has constructed its network (the "Network") using 850 MHz cellular spectrum in two of its counties, and 1900 MHz PCS spectrum in the other three counties.

Since overcoming the challenging letter of credit requirements resulting from the Mobility Fund Phase I ("MF-I") process, Pine Belt has worked diligently and aggressively to upgrade its wireless network from equipment that had been long-discontinued by its manufacturer and was capable of providing only 2G voice and data services to then-current, state-of-the-art 3G equipment. The commercial success that Pine Belt realized as a result of those efforts has set the stage for its current and ongoing, debt-funded 4G-LTE upgrade project and the planned deployment of the necessary IP Multimedia Systems necessary to support VoLTE.

Pine Belt is an eligible telecommunications carrier ("ETC") and receives federal financial support. The Network has been built-out with internally generated capital, debt financing and support from the USF. Pine Belt's most recently completed network overhaul was accomplished by successfully leveraging the allocation of MF-I allocation for which it qualified. Pine Belt receives an ongoing modest, month-to-month, amount of legacy CETC/Frozen High Cost USF.

Despite the Service Area being located within extremely rural and, in fact, impoverished counties in Alabama,[2] Pine Belt's sole mission remains consistent with that adopted by the company founder in 1958: to enhance the quality of life for its customers and partners and the economic growth of its Service Area.

II. Discussion

A. The Proposed Rule Will Result in Uncertainty for Rural Telecommunications Companies.

At the outset, it is important to note that the overall uncertainty created by the release of the NPRM and the potential inability of rural telecommunications companies to predict which

[2] According to information pulled from the U.S. Census Bureau's website, in 2013, approximately 31% of the population in the counties comprising the Service Area live below the poverty line.

communications equipment or service providers may be determined in the future to pose a national security threat to the integrity of communications networks or the communications supply chain will discourage such companies from investing additional money and resources into future network expansion and deployment. The uncertainty created by the mere release of this NPRM has already negatively impacted Pine Belt, putting future deployment plans and equipment purchases in jeopardy. For example, Pine Belt recently acquired several 600 MHz licenses. However, because of the uncertainty created by the proposed rule, discussions with Pine Belt's primary wireless infrastructure vendor, ZTE, regarding the deployment of 600 MHz radios and strategic plans for the commercial launch of 4G VoLTE and 5G services have ceased. Furthermore, Pine Belt has begun installation of a new base station in a small town in its Service Area with a 2010 census population of 26. However, Pine Belt has been unable to turn on LTE service as a result of the vendor company being unable to complete software updates or to obtain software licenses stemming from the vendor's combined reaction to the NPRM and other federal actions. Similarly, Pine Belt has three more base stations which are scheduled to be deployed to provide wireless broadband services to other low-density areas where broadband service from the incumbent wireline carrier is unavailable or inadequate; however, the ability to complete that work will be stalled for the same licensing issue and fear of penalty.

Pine Belt, like other independent rural operators, was blindsided by the Commission's proposals and has had to use its limited resources to assess the implications of these proposed rules rather than continuing to carry out its core mission: to serve unserved and underserved portions of rural Alabama.

In addition, almost every component used in the construction and operation of telecommunications networks, wired and wireless, is partially manufactured overseas. America is part of a global economy, and the small rural telecommunications carrier has no way to predict which communications equipment or service providers may be determined in the future to pose a national security threat.

B. The Proposed Rule Will Cause Substantial Harm to Rural Telecommunications Companies, Consumers, and Rural Deployment.

In the NPRM, the Commission asks, among other things, what impact the proposed rule will have on small businesses.[3] National security in general, and the safeguarding and security of telecommunications networks in particular, are extremely important to Pine Belt, and Pine Belt fully supports well-reasoned efforts to protect the country in these matters.[4] However, Pine Belt has not seen any evidence that the drastic measures proposed in the NPRM are necessary, or even reasonably related, to furthering the goal of national security. In fact, if implemented, the proposed rule would stifle rural deployment of broadband wireless networks and therefore harm rural America in several ways.

The costs associated with the replacement of existing network equipment which in the future is determined to violate the proposed rule imposes a significant and unreasonable financial burden on rural telecommunications carriers. These costs will be incurred in the form of, among other things, actual equipment costs, as well as research and development and pre-deployment testing. One hundred percent of Pine Belt's current Radio Access Network and the software for all elements of the core, and a majority of the core hardware, were manufactured by ZTE which is, as mentioned above, Pine Belt's primary wireless infrastructure vendor. Pine Belt chose ZTE

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[3] *See* NPRM, ¶ 33.

[4] In fact, Pine Belt, its parent company, and its affiliates have a long history of supporting the national security of the country and have employed many veterans of the United States Armed Forces over their 60 year existence. For example, its founder was a World War II US Army combat veteran, and the current president and over 10% of the current workforce are military veterans. Pine Belt takes very seriously the safety and security of the United States and its citizens.

because it was the most cost-effective option and Pine Belt knew of no facts that would suggest doing so would, in any way, put national security at risk. ZTE is also Pine Belt's primary provider of on-the-ground support services, including installation of new and upgrade equipment, repairs of equipment, etc. ZTE has proven to be highly cost-effective and provides the requisite carrier reliabilities in its hardware and software products, and ZTE offers good customer service. Before contracting with ZTE, Pine Belt had faced challenges with preceding vendors, one of which was a lower-priced alternative for 3G equipment. That vendor is no longer in business. Another vendor offered compelling pricing in the early 2000's; however, as it turned out, their cost to Pine Belt for ongoing support and software upgrades were prohibitively expensive and not a viable option. ZTE's service record, while not perfect, has resulted in few coverage outages for our customers, and its pricing has been reasonably predictable and within Pine Belt's financial reach.

Pine Belt believes the proposed rule would, for practical purposes, soon lead to it having to replace all of its existing ZTE equipment, which represents the vast majority of its Network. Although the proposed rule may not, by policy, preclude Pine Belt from continuing to use equipment that is already purchased, Pine Belt is very concerned about the long-term interoperability if it was to continue using ZTE equipment in conjunction with newer equipment (including upgrades) from different manufacturers. A strict ban on using ZTE equipment moving forward would ultimately mean that Pine Belt would have to replace the ZTE equipment prior the end of its useful life. Pine Belt estimates that the purchase price of replacement equipment for a network of Pine Belt's size would be from \$6 million to \$10 million, and the downtime from installing new equipment would likely cause Pine Belt to forego another \$1 to 3 million in roaming fees from the service it provides to customers of the larger carriers. In total, the proposed rule could easily result in $7 to $13 million in direct, "re-start" costs to Pine Belt.

Further compounding this enormous expense is the lack of capital and financing options available to rural telecommunications carriers.[5] As a result, the proposed rule would cause substantial irreparable harm to small rural telecommunications carriers and, in some cases, may force some such companies out of business.

In addition, the rural consumers who rely on these small rural companies for the provision of telephone, wireless and Internet services which are otherwise unavailable to them are harmed. This result is contrary to the purpose of the USF, which is intended to increase access to evolving services for consumers living in rural and insular areas, and for consumers with low-incomes, as well as for increased access to high-speed Internet in the nation's schools, libraries and rural health care facilities.

C. The FCC Should Not Tie Denial of USF Support to the Purchase of Type-Accepted and Approved Equipment.

If the FCC proceeds with the adoption of rules governing the purchase of equipment from companies that could be deemed a threat to national security, the receipt of USF funds by rural telecommunications carriers should not be implicated. To dictate otherwise could jeopardize not only wireless access for rural customers across the country but also wired services, as Pine Belt, whose incumbent local exchange carrier affiliate depends heavily on USF funds for its rural deployments, could also be forced to curtail its ongoing capital and operating expenditures for rural broadband infrastructure should any of its key suppliers later be deemed to be a threat to national security. Specifically, Pine Belt has constructed its wireless Network using equipment

[5] Currently, there are generally only two specialty lenders, CoBank and RTFC, with the requisite understanding of the rural wireless industry necessary to properly evaluate the merits of any project financing proposal.

manufactured by ZTE, a Chinese company. As discussed above, Pine Belt chose ZTE as its vendor for several reasons, the most relevant of which are the affordability and reliability of its equipment. Substantially all of the funds used in deploying the ZTE equipment came from Pine Belt's MF-I receipts. Given Pine Belt's size and financial status, purchasing the equipment necessary to construct the Network from ZTE was its best option at the time, as the cost of such equipment from other vendors used by large nationwide wireless providers would have allowed Pine Belt to extend coverage to only a portion of the geography and population currently covered by Pine Belt.

In constructing the Network, Pine Belt followed all FCC rules regarding vendor selection and purchased only type-accepted equipment. Additionally, Pine Belt has expended significant time and financial resources to acquire the spectrum and other assets necessary for the construction, operation, and maintenance of the Network and for the provision of the services thereby to rural consumers. If Pine Belt's current Network equipment is later determined to be in violation of the proposed rule, Pine Belt will incur debilitating costs to purchase a new core for switching, base stations, CPE, etc., as ongoing maintenance and upgrades to its current equipment will be impossible. Thus, despite the fact that the NPRM states that the proposed rule would apply only prospectively,[6] the proposed rule would actually have extremely harmful retroactive effects. Pine Belt should not be penalized for operating its business in compliance with the rules promulgated by the federal government.

In fact, Pine Belt believes that requiring USF recipients to expend extensive financial and other resources to rebuild their networks actually results in such companies having fewer resources to invest in national security with respect to their own telecommunications networks.

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[6] *See* NPRM, ¶ 17.

A more reasonable approach to protecting national security through telecommunications networks is to encourage and even require via a funded mandate that carriers adopt consistent and standardized network intrusion detection and mitigation policies and systems. The significant, and possibly devastating, burden of complying with such an overbroad, harmful and ineffective rule as proposed in the NPRM should not be placed on small rural telecommunications carriers who are dependent on USF funds to carry out their mission of serving unserved and underserved rural areas of America.

III. Conclusion

The federal government supports some rural providers to promote the extension of the most modern telecommunications services to all consumers everywhere at just and affordable rates. The consumers who need and receive the most assistance are often those served by the locally-owned and managed small rural company. These companies generally choose to serve their market areas based on a deep, abiding sense of obligation and loyalty to the heritage of the area, not because of the upside economic opportunity represented by the area's profile. As a whole, these companies, relative to their overall capital structure, have a much higher need for USF funds to be and remain viable. In other words, these companies work hard day in and day out to serve this underserved consumer segment in spite of the area's unfavorable and unattractive economic profile.

However, the uncertainty in the usefulness of current and future network equipment and the costs associated therewith caused by the proposed rule would devastate rural deployment of broadband wireless networks, and Pine Belt firmly believes that the proposed rule poses the single biggest threat to Pine Belt's ongoing viability. Pine Belt therefore requests that the proposed rule not be tied to USF funds unless the government proves that the use of such funds is an actual threat to national security. Further, Pine Belt requests that the rule offer an effective waiver process and a sufficient mitigating compensation fund in the event that the rule is deemed to apply to Pine Belt and other USF recipients.

Respectfully submitted,

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